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IN THE SECOND JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA

CHAMBERS OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER NO 98-03

IN RE

SERVICE OF RESTRAINING ORDERS IN DOMESTIC VIOLENCE CASES  
UPON PERSONS WHO HAVE BEEN ADMITTED TO MENTAL HEALTH,  
ALCOHOL OR DRUG ABUSE EVALUATION AND TREATMENT FACILITIES

WHEREAS, domestic violence is a matter of great public concern, and

WHEREAS, Courts are often called upon to enter restraining orders in cases  
involving such orders, and

WHEREAS, persons who are the subject of such orders have often been admitted  
(voluntarily or involuntarily) to a public or private receiving facility, or detoxification center, and

WHEREAS, the limited number of law enforcement personnel make it impossible  
to post an officer outside such facilities for the sole purpose of serving a restraining order upon a  
person who is the subject of such an order, when the person is discharged from the facility at some  
indeterminate time, and

WHEREAS, the operators of such facilities are subject to state and federal statutes  
and regulations which establish a privilege of confidentiality for the clients being served at such  
facilities, subject to certain prescribed exceptions, and

WHEREAS, notwithstanding such privilege or right of confidentiality, a court of  
competent jurisdiction may, after application showing good cause, enter an appropriate order  
allowing the disclosure of otherwise confidential information, and

WHEREAS, in assessing good cause the court is required to weigh the public interest



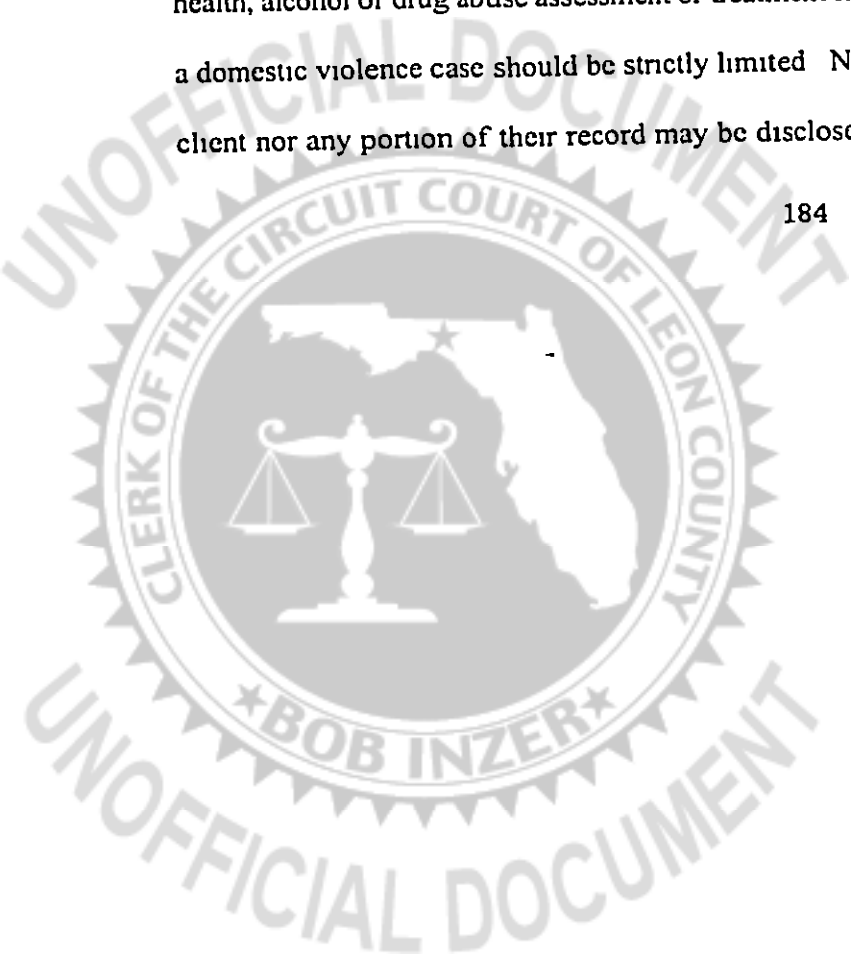
and the need for disclosure against the injury to the patient, to the relationship and to the treatment services. Additionally, when considering a request for disclosure of confidential information, the court is required to determine the extent to which any disclosure of all or any part of any record is necessary, and to impose appropriate safeguards against unauthorized disclosure, and

WHEREAS, the need for service of a restraining order arises at different times of the day and night, and

WHEREAS, it is not always possible to gain immediate access to a judge of a court of competent jurisdiction for the limited purpose of allowing service of a restraining order on a client of a facility which is subject to client rights of confidentiality, and

WHEREAS, the Court finds

- (1) That situations involving domestic violence present a significant potential for serious physical injury or death on the part of those exposed to such conduct,
- (2) That the public has an interest in attempting to prevent domestic violence which outweighs a limited infringement upon a client's rights of confidentiality which would result from requiring employees of a mental health, alcohol or drug abuse evaluation or treatment facility to acknowledge to law enforcement officers the presence at the facility of a person who is the object of such an order and from service of a restraining order upon a client at such a facility, provided the service is accomplished in a discreet and private manner,
- (3) That the intrusion upon the rights of confidentiality of a client of a mental health, alcohol or drug abuse assessment or treatment facility in order to serve a restraining order in a domestic violence case should be strictly limited. No confidential communications by any such client nor any portion of their record may be disclosed to any officer attempting to ascertain the



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presence of a particular person at such a facility or, who is attempting to execute service of a restraining order upon a person who is a client or patient at such a facility. A law enforcement officer who learns of the presence of a person at an alcohol, drug abuse or mental health assessment or treatment facility, pursuant to the provisions of this Order, is prohibited from further disclosure of such information, nor may any information gained by a law enforcement officer, acting pursuant to this Order, be used in any civil or criminal proceeding against the person upon whom service of a restraining order is sought to be effected.

IT IS THEREFORE ORDERED

(1) IN ANY CASE IN THIS JUDICIAL CIRCUIT INVOLVING A CLAIM OF DOMESTIC VIOLENCE, AND IN WHICH A COURT OF COMPETENT JURISDICTION HAS ENTERED A RESTRAINING ORDER AGAINST ONE OR MORE OF THE PERSONS INVOLVED, PERSONNEL OF ANY MENTAL HEALTH, ALCOHOL OR DRUG ABUSE EVALUATION OR TREATMENT FACILITY ARE DIRECTED AND ORDERED TO ACKNOWLEDGE UPON INQUIRY BY A LAW ENFORCEMENT OFFICER WHO IS ATTEMPTING TO EFFECTUATE SERVICE OF SUCH RESTRAINING ORDER, WHETHER THE SUBJECT OF THE ORDER IS PRESENT IN THE FACILITY

(2) LAW ENFORCEMENT OFFICERS ARE AUTHORIZED TO SERVE RESTRAINING ORDERS ENTERED IN DOMESTIC VIOLENCE CASES, UPON THE SUBJECT OF SUCH AN ORDER WHILE HE OR SHE IS BEING DETAINED AT OR RESIDING IN A 24-HOUR MENTAL HEALTH, ALCOHOL OR DRUG ABUSE EVALUATION OR TREATMENT FACILITY. SERVICE OF THE ORDER IS TO BE ACCOMPLISHED IN THE MOST DISCREET AND PRIVATE MANNER PRACTICABLE UNDER THE CIRCUMSTANCES

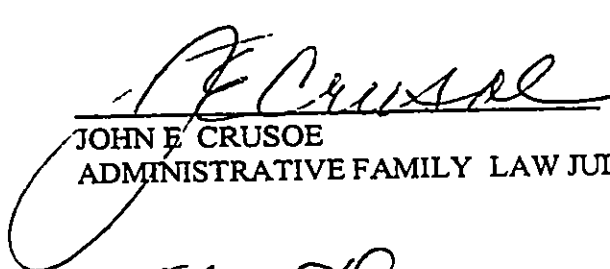
(3) NO INFORMATION GAINED BY A LAW ENFORCEMENT OFFICER WHILE EFFECTING SERVICE OF A RESTRAINING ORDER AT A MENTAL HEALTH, ALCOHOL OR DRUG ABUSE EVALUATION OR TREATMENT FACILITY, PURSUANT TO THIS ORDER, MAY BE USED IN ANY CIVIL OR CRIMINAL PROCEEDING AGAINST THE SUBJECT OF SUCH ORDER.

**DONE AND ORDERED** in Chambers this 17th day of February, 1998

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JOHN E. CRUSOE  
ADMINISTRATIVE FAMILY LAW JUDGE

  
N SANDERS SAULS  
CHIEF JUDGE

